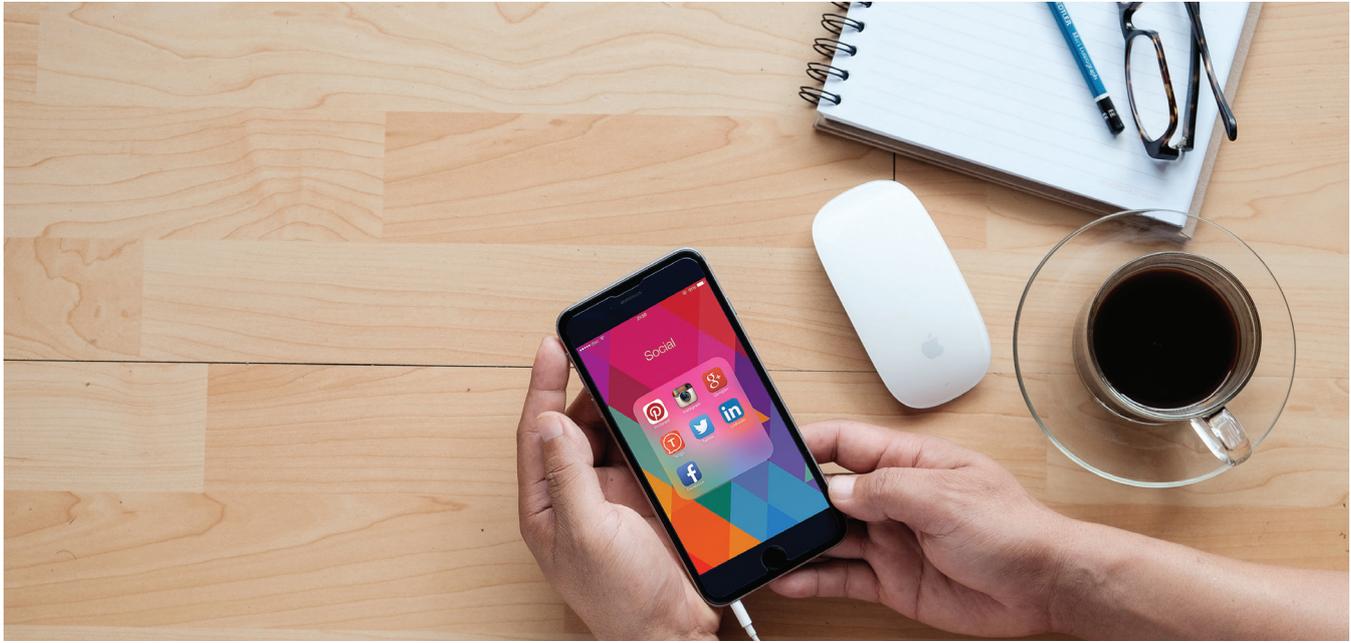


SOCIAL MEDIA TRADE PROMOTIONS

Tips and traps



Online promotions and competitions can be an effective way to boost exposure to your brand and engage with your target market. When it comes to the area of window furnishings, this principle equally applies. You may want to run a competition like:

- “Caption this photo for a chance to win”
- “Tell us in 50 words or less why ...”
- “Like, comment or share this to be in the draw for ...”

Many people do not realise that these sorts of promotions are regulated by strict trade promotion lotteries laws, as well as the specific rules of the social media platform.

Are you ready?

If you run trade promotions, or intend to in the future, test yourself by taking this quick quiz to see if you're on top of your game:

- Can you require participants to enter by sharing on Facebook?
- Can you charge an entry fee?
- Do the laws stop you from giving certain prizes away?
- Are you aware of when you can't offer the prize to people under 18?
- When do you need a permit?

If you didn't know the answer to two or more of these and intend to run trade promotion, you may want to get some legal advice first. This is a complex area, particularly because the laws in each state or territory can be quite different. However, once you get it right, at least you know you can run the promotion safely.

Types of trade promotions

There are two basic types of trade promotion competitions that a business can run.

The first is a “game of chance”. Here, the winner is essentially just chosen at random. The second is a “game of skill” where there is something required from the contestant, and then the winner is judged or voted.

Each type of promotion is governed differently, so it is important that you have a good understanding of the type of promotion you are running and the rules that apply.

Trade promotion laws

Running a trade promotion is subject to relevant laws concerning trade promotion lotteries. Each State and Territory in Australia has its own set of regulations setting out how trade promotions should be conducted in that State or Territory.

Social media trade promotions need to comply with those regulations just like traditional trade promotions. Subject to the specific eligibility requirements (e.g. only apply if you live in Victoria), social media trade promotions will generally exceed traditional state boundaries. That is, it would constitute a promotion in many (if not all) States and Territories.

For this reason, the trade promotion must comply with the regulations of each of the relevant States and Territories OR you need to limit the eligibility requirements to the specific state you are based in.

Do you need a permit?

Some states and territories also require you to obtain a permit before you run the trade promotion.



Social media rules

In addition to the various regulatory requirements, if you are running your trade promotion through social media, i.e. through Facebook or Instagram, you also need to comply with their rules or terms and conditions.

For example, Facebook doesn't permit "sharing" as a condition of the promotion, but "liking" may be ok.

Therefore, before you run your trade promotion, it is essential that you check that you are complying with the terms and conditions of the social media platform you are running the promotion on.

Entry fees

One important thing to highlight is that generally you cannot charge an "entry fee" of more than \$1, and this can include things such as delivery.

Therefore, you may not be able to require the winner to pay for delivery as that would be interpreted as being an entry fee or part thereof.

Your terms and conditions

Generally speaking, it is prudent to have terms and conditions for your trade promotion.

These benefits you in that people will clearly know their rights and obligations, which adds certainty to your promotion.

Takeaway tips

Trade promotions can be a great way to boost your business. However, care is required, especially when promoting through social media as it often means that the laws of many states and territories will need to be considered.

In addition to the laws, you also need to ensure you are complying with the terms and conditions of the social media platform you are using. These are regularly updated, so be sure you are on top of the latest rules.

You should also check whether you can charge an entry fee or whether you need a permit before you put your promotion online.

Lastly, having a good set of terms and conditions can ensure that participants understand their rights and obligations.



This article was written by Sharon Givoni and Lisa Archbold, Melbourne-based intellectual property lawyers who advise clients in many areas of the law, including branding and marketing Australia-wide.

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Disclaimer: This article is not to be relied upon as a substitute to tailored legal advice and is intended as a general overview of the subject matter only.